Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to 37 CFR 1.8(a)(1)(ii) I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office via the electronic filing system in accordance with 37 CFR §§1.6(1)(4) and 1.8(a)(1)(i)(C) on the date indicated below. on _10/12/07_____ Signature /RobertSChee/_____ Typed or printed name _____Robert S. Chee_____	**Docket Number (Optional)** 50277-2248

Application Number	Filed
10/643,629	August 18, 2003

First Named Inventor
Wei Li

Art Unit	Examiner
2162	Alam, Shahid Al

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
     Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 58,554_____.

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

_/RobertSChee#58554/_____
Signature

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Typed or printed name

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Telephone number

_10/12/07_____
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1_____ forms are submitted.

<u>REMARKS</u>

As will be seen from the discussion below, the current rejections in this case are a result of clear errors of fact.

Claim 21 recites, *inter alia*, "performing the frequent itemset operation in a plurality of phases, wherein each phase is associated with combinations that have a particular number of items; during at least one phase of the plurality of phases, performing the steps of … grouping the candidate combinations into clusters, wherein each cluster corresponds to a common combination of items, and wherein all candidate combinations in a given cluster include the common combination of items associated with the cluster."

The Examiner alleges that this aspect of Claim 21 is disclosed in U.S. Patent No. 6,324,533 ("*Agrawal*") at Col. 5, lines 41-47. Specifically, the Examiner alleges that the cited selection in *Agrawal* discloses grouping the candidate combinations into clusters based on which items are included in said candidate combinations.

The first clear error is that **the rejection cites claim language that has since been amended** on a Reply to Office Action dated July 3, 2006.

The second clear error is that this rejection was made even though the cited section in *Agrawal* has nothing analogous to: during a phase of a frequent itemset operation, grouping candidate combinations in a cluster that corresponds to a common combination of items, and where all candidate combinations in a given cluster include the common combination of items associated with the cluster.

At best, *Agrawal* discusses an approach for determining whether a candidate combination meets certain frequency criteria during a phase of a frequent itemset operation ("At the end of the pass, C_k is examined to determine which of the candidates

are frequent, yielding F_k"); however, nothing in the selection of *Agrawal* suggests grouping candidate combinations into clusters during a phase of a frequent itemset operation.

In the Final Office Action, the Examiner, in the "Response to Arguments," states that the "Examiner, in his previous office action, gave detail [sic] explanation of claimed limitation and pointed out exact locations in the cited prior art." However, there has been no change in the substantive rejection of this limitation since the initial Office Action dated April 4, 2006, and no further response to Applicant's previous arguments.

The Examiner continues, in the "Response to Arguments," citing *Agrawal* abstract and Col. 4, lines 57-67, in disclosing "The frequent 1-itemsets and 2-itemsets are generated by referring a transaction table to obtain candidate set of (n+2)-itemsets and frequent (n+2)-itemsets using a query operation. The generation of frequency itemsets is repeated until the candidate set is empty." (Final Office Action, p. 4).

The Examiner fails to point out which particular limitations are supposed to be disclosed by this passage. It appears that this statement was made to somehow show the limitations of Claim 21 of grouping the candidate combinations into clusters. Assuming arguendo, that the frequent *N* itemset candidates of *Agrawal* are analogous to the number of items in a phase, the limitation of grouping candidate combinations into clusters is still not disclosed.

Agrawal specifically states "A set of frequent 1-itemsets is generated using a group-by query on data transactions. From these frequent 1-itemsets and the transactions, frequent 2-itemsets are determined. A candidate set of (n+2)-itemsets are generated from the frequent 2-itemsets, where n=1. Frequent (n+2)-itemsets are determined from candidate set and the transaction table using a query operation." (*Agrawal*, Abstract).

However, *Agrawal*, **never** specifies that any candidate set is grouped into clusters as part of a phase, as in the limitation of Claim 21 "grouping the candidate combinations into clusters, wherein each cluster corresponds to a common combination of items." A 'group-by' query is used to generate frequent 1-itemsets, but this is not used to group *candidates* into clusters in a phase. Rather, *Agrawal* "us[es] a query operation" to determine frequent itemsets from *candidates* and never groups candidate combinations into clusters in a phase.

Therefore, the Examiner makes a **clear error** of fact when the Examiner alleges that *Agrawal* discloses "performing the frequent itemset operation in a plurality of phases, wherein each phase is associated with combinations that have a particular number of items; during at least one phase of the plurality of phases, performing the steps of … grouping the candidate combinations into clusters, wherein each cluster corresponds to a common combination of items, and wherein all candidate combinations in a given cluster include the common combination of items associated with the cluster" as recited in Claim 21.

For at least the above reasons, Claim 21 is patentable over *Agrawal* under 35 USC § 102(b). The remaining pending claims depend, directly or indirectly from Claim 21, are analogous to Claim 21, or depend from a claim that is analogous to Claim 21. Therefore, all of the pending claims are patentable over *Agrawal* under 35 USC § 102(b). Additionally, none of the other cited references discloses, teaches, or suggests the features of Claim 21 that *Agrawal* fails to disclose.

Applicants request that the rejections of all the pending claims be reversed.